

SENT VIA FAX

June 14, 2006

The Honorable Alberto Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

The Honorable John Negroponte
Director of National Intelligence
Office of the Director of National
Intelligence
Washington, DC 20511

Dear Attorney General Gonzales and Director Negroponte:

I remain extremely concerned about the inadequate congressional oversight of the NSA's warrantless domestic wiretapping program.

I am a member of both the Senate Select Committee on Intelligence and the Senate Judiciary Committee. Both committees play important oversight roles with respect to surveillance conducted inside the United States for purposes of foreign intelligence collection. Historically, both Committees have actively been involved in issues related to the Foreign Intelligence Surveillance Act (FISA), from FISA's enactment in 1978 through to the reauthorization of the expiring provisions of the USA PATRIOT Act earlier this year.

Last month, after questions were raised about the nomination of General Michael Hayden to be Director of the CIA, the Administration finally agreed to brief the full congressional intelligence committees on its wiretapping program. I have since been briefed on the program, although I still have much more to learn about it. Based on what information has been provided to me, I remain absolutely convinced that the program is illegal. I also believe that the Administration could and should have complied with the Foreign Intelligence Surveillance Act, which governs all electronic surveillance within the United States.

The Administration's decision to begin briefing the full congressional intelligence committees was long overdue. The National Security Act requires that the intelligence committees be fully informed of all intelligence activities other than covert actions. But the Judiciary Committee also has an important role to play in oversight of this program. Indeed, as you know, several bills relating to the NSA program have been referred to the Judiciary Committee. Yet members of the

Senate Judiciary Committee who do not also serve on the Intelligence Committee — that is, 14 out of the 18 members — have received no briefings about the program.

As a member of the Intelligence Committee who has attended briefings about the program, I believe it is essential that you provide additional information to all the members of the Judiciary Committee so that these Senators can adequately evaluate the legislative proposals regarding FISA and the government's domestic surveillance authorities that are on the Committee's agenda. I strongly believe that Congress must conduct a full investigation of the program. But at a bare minimum, the Judiciary Committee needs further information about this program so that it can carry out its jurisdictional responsibilities. While the Judiciary Committee need not delve into the kind of operational detail provided to the Intelligence Committee, I firmly believe that the Judiciary Committee cannot do its job without access to contemporaneous legal justifications for the program and a candid exchange with Administration officials about the basis for bypassing FISA. I ask that you provide this information, in a classified setting to the extent necessary, as soon as possible.

Thank you in advance for a prompt response.

Sincerely,



Russell D. Feingold
United States Senator